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Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire

Note verbale dated 8 November 2006 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Hungary to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire and has the honour to provide the following information:

1. Hungary and the other member States of the European Union (EU) have jointly implemented the restrictive measures against Côte d'Ivoire imposed by Security Council resolutions 1572 (2004) and 1643 (2005) by taking the following common measures:[1]

- Council Common Position 2006/30/CFSP of 23 January 2006[2]

  The Common Position sets out the EU's commitment to implementation of all the measures contained in Security Council resolutions 1572 (2004) and 1643 (2005), and provides the basis for some of the specific implementing measures adopted by the Council of the EU. Common Position 2006/30/CFSP replaces Common Position 2004/852/CFSP,[3] which imposed the measures contained in Security Council resolution 1572 (2004) and expired on 15 December 2005. Specifically, it reinstates the measures contained in Common Position 2004/852/CFSP and provides for the prohibition on the import of rough diamonds from Côte d'Ivoire imposed by Security Council resolution 1643 (2005).

- Council Decision 2006/483/CFSP of 11 July 2006[4]

  The Council Decision implements the above Common Position and establishes, notably for the purposes of the visa ban and financial

[1] All common measures are published in the Official Journal of the European Union, which can be consulted through the following webpages: http://europa.eu.int/eur-lex/lex/JOIndex.do?ihmlang=en (published issues) and http://europa.eu.int/eur-lex/lex/RECH_menu.do?ihmlang=en (search form).

[2] Official Journal of the European Union L 19, 24.1.2006, p. 36.

[3] Official Journal of the European Union L 368, 15.12.2004, p. 50.

[4] Official Journal of the European Union L 189, 12.7.2006, p. 23.

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restrictive measures, the list of three persons designated by the Côte d'Ivoire sanctions committee on 7 February 2006.

- Council Regulation (EC) No. 174/2005 of 31 January 2005,[5] as amended by Commission Regulation (EC) No. 1209/2005[6]

  The Council Regulation implements in the European Community the restrictions on the supply of assistance related to military activities to Côte d'Ivoire as imposed by Security Council resolution 1572 (2004). The Commission Regulation, for its part, amends the list of competent authorities in member States to which the Regulation assigns certain tasks in the implementation of the Regulation.

- Council Regulation (EC) No. 560/2005 of 12 April 2005,[7] as amended by Commission Regulation (EC) No. 250/2006[8] and Commission Regulation (EC) No. 869/2006[9]

  The Council Regulation implements in the European Community the freezing of funds and economic resources of designated persons and entities in accordance with the designation of the United Nations sanctions committee and the prohibition of making funds or economic resources available to such persons or entities, with certain exemptions as provided for in Security Council resolution 1572 (2004). The Commission Regulation amends the Council Regulation by including the list of three persons designated by the Côte d'Ivoire sanctions committee on 7 February 2006 in annex I to the Council Regulation, as amended by the sanctions committee on 30 May 2006.

- Council Regulation (EC) No. 2368/2002 of 20 December 2002[10]

  The prohibition on the import of all rough diamonds from Côte d'Ivoire, as imposed by Security Council resolution 1643 (2005), is being enforced in the European Community by virtue of Council Regulation (EC) No. 2368/2002 of 20 December 2002, which implements the Kimberley Process Certification Scheme (KPCS) in the European Community. Given that no Kimberley Process certificates are being issued by Côte d'Ivoire and given that the Chair of the Kimberley Process has instructed Participants in the KPCS not to accept any shipments of rough diamonds with certificates issued by the authorities of Côte d'Ivoire, no rough diamonds from Côte d'Ivoire can currently be imported into the European Community. Moreover, in implementation of the resolution adopted by KPCS Participants meeting in plenary in Moscow in November 2005, the European Commission (which represents the European Community in the KPCS) has requested the authorities of member States to report any imports of rough diamonds suspected of involving rough diamonds originating in Côte d'Ivoire, and any cases of trade of rough diamonds within the EC that are suspected of involving

[5] Official Journal of the European Union L 29, 2.2.2005, p. 5.
[6] Official Journal of the European Union L 197, 28.7.2005, p. 21.
[7] Official Journal of the European Union L 95, 14.4.2005, p. 1.
[8] Official Journal of the European Union L 42, 14.2.2006, p. 24.
[9] Official Journal of the European Union L 163, 15.6.2006, p. 8.
[10] Official Journal of the European Union L 358, 31.12.2002, p. 28.

rough diamonds originating in Côte d'Ivoire. To date, there have been no confirmed cases in the EU of import or trade involving rough diamonds originating in Côte d'Ivoire since the entry into force of Regulation 2368/2002.

- Council Regulation (EC) No. 539/2001 of 15 March 2001[11]

  This Regulation requires nationals of Côte d'Ivoire to be in possession of a visa when entering the European Union.

The above-mentioned Council Regulations are binding in their entirety and directly applicable in all member States of the European Union.[12]

2. In addition, Hungary has the following national legislation as regards restriction on admission (visa ban), which together with Common Position 2006/30/CFSP and Regulation (EC) No. 539/2001 provide the basis for refusal of admission and denial of requests for a visa:

- Act 32 of 1997 on the Border Guard and border guarding;
- Act 39 of 2001 on the entry and residence of aliens;

  According to both acts, the Hungarian Border Guard fulfils its duties to prevent the entry of people with respect to whom the Republic of Hungary has undertaken a commitment by international agreement or within the framework of international cooperation to enforce a ban on entry and stay.

3. Hungary has the following national legislation requiring an export authorization for the sale, supply, transfer or export of arms and related materiel[13] to third countries and an authorization for the provision of brokering services and other services related to military activities, which together with Common Position 2006/30/CFSP provide the basis for enforcement of the arms embargo against Côte d'Ivoire and the ban on related brokering services:

- Government Decree No. 16/2004 (II.6) on the licensing of the export, import, transfer and transit of military equipment and technical assistance;
- Government Decree No. 50/2004 (III.23) on licensing foreign trade in dual-use goods and technologies;
- Government Decree No. 110/2004 (IV.28) on the cross-border or cross-tariff border trade in goods, services and rights representing material value (in force from 23 December 2005);
- Act 109 of 2005 on licensing the manufacture of military equipment and the provision of military-related technical assistance;
- Government Decree No. 301/2005 (XII.23) on the special rules applicable on licensing of the manufacture of military equipment and the provision of military-related technical assistance.

[11] Official Journal of the European Union L 81, 21.3.2001, p. 1.

[12] Regulation (EC) No. 539/2001 applies neither to Ireland nor to the United Kingdom.

[13] This legislation should apply to all goods included in the Common Military List of the European Union, Official Journal of the European Union C 66, 17.3.2006, p. 1.

A 3-tier arms trade licensing system with very strict procedural sequence guarantees that all international obligations of the Republic of Hungary, including United Nations embargoes, are duly respected. The EU Code of Conduct on arms export (adopted on 8 June 1998) and EU Common Position 2003/468/CFSP on the control of arms brokering are also applied. The former document foresees in criterion one that export licences are to be refused if and when approval would be inconsistent with the international obligations of (EU) member States and their commitments to enforce United Nations, Organization for Security and Cooperation in Europe and EU arms embargoes. Moreover, the applied licensing principles do not favour exports to regions of tension and accordingly, the Hungarian Trade Licensing Office has not been issuing export licences for arms export to western African States for years.

4. Hungary has the following national legislation regarding economic and financial sanctions, which together with Council Regulation (EC) No. 560/2005 and Commission Regulation (EC) No. 250/2006 provide the basis for the freezing of funds and economic resources of persons and entities designated under Security Council resolution 1572 (2004):

- Act CXII of 1996 on credit institutions and financial enterprises;
- Act LX of 2003 on insurance institutions and the insurance business;
- Act CXX of 2001 on the capital market;
- Act LXXXIII of 2001 on combating terrorism, tightening up the provisions on the impeding of money-laundering and on the ordering of restrictive measures;
- Article 85 of Act V of 2006 on the public company information and court registration proceedings and voluntary dissolution;
- Government Decree 306/2004 on the tasks of the authorities granting exemptions from the asset-related restrictive measures ordered by the European Union.

5. Regulations (EC) No. 174/2005, No. 560/2005 and No. 2368/2002 require member States to determine the penalties applicable to infringements of their provisions. The penalties determined by Hungary are set out in the following legislation:

- Act 4 of 1978 on the Hungarian Criminal Code

  According to article 261/A (1) of the Criminal Code, on the breach/violation of an international economic sanction, the person who violates the obligation of freezing liquid assets, other financial interests and economic resources or an economic, commercial or financial restriction commits a felony, and shall be punishable with imprisonment of up to five years.

  Under section 263/B of the Penal Code on arms trafficking, any person who imports to, exports from, or transports through the territory of Hungary firearms, ammunition, explosives, destructive devices or equipment serving for the use of such, without licence, or by exceeding the scope of the licence, is guilty of a felony punishable by imprisonment of between five to ten years.

According to article 287 on the infringement of an obligation relating to the traffic of internationally controlled military equipment and services, and dual-use items and technology, the person who violates the obligations under this article commits a felony, and shall be punishable with imprisonment of up to five years.